

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

TELLIS WILLIAMS	)	
	)	
v.	)	No. 3:10-1176
	)	JUDGE CAMPBELL
UNITED STATES OF AMERICA	)	

ORDER

Pending before the Court are Petitioner's Second Motion To Set Evidentiary Hearing (Docket No. 74), the Government's Response (Docket No. 77), and the Petitioner's Reply (Docket No. 82).

On December 13, 2010, the Petitioner filed a Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence By A Person In Federal Custody (Docket No. 1). The Court set an evidentiary hearing to consider Petitioner's claim that trial counsel was ineffective for failing to file an appeal in the underlying criminal case, and appointed counsel for the Petitioner. (Docket No. 12). The parties presented testimony and other evidence on all claims at the hearing that lasted two days. (Docket Nos. 29, 30). After the hearing and the filing of post-hearing briefs, the Court issued a Memorandum and Opinion (Docket Nos. 35, 36) holding that the Petitioner was entitled to a delayed direct appeal. In light of that holding, the Court found it unnecessary to rule on the Petitioner's other claims. (Docket Nos. 35, 36).


The Petitioner subsequently filed a direct appeal in the underlying criminal case in which he raised ineffective assistance of counsel claims. (Docket No. 135 in Case No. 3:09-00090). The Sixth Circuit declined to rule on those claims and remanded the matter to this Court with the instruction to reopen this case and rule on those claims. (*Id.*) Once the appeals court issued its

mandate, this Court entered an Order (Docket No. 37; Docket No. 137 in Case No. 3:09-00090) re-opening this case and setting a briefing schedule on Petitioner's claims.

Through the pending Motion, the Petitioner seeks a second evidentiary hearing to allow an expert to testify as to whether trial counsel rendered ineffective assistance, and "any other issue material to the ineffective assistance claims." (Docket No. 74). In his Reply (Docket No. 82), Petitioner states: "If this Court does not grant relief on the existing record, Petitioner should have the opportunity to establish a complete record."

The Second Motion To Set Evidentiary Hearing (Docket No. 74) is DENIED. The Petitioner was provided ample opportunity to present evidence to support all his claims at the two-day evidentiary hearing previously held by the Court. Petitioner may submit any additional evidence to the Court through written declarations. The Petitioner has already submitted the declaration of his expert (Docket No. 53-1), and it will be fully considered by the Court. Any such supplemental evidence shall be filed on or before September 17, 2014.

It is so ORDERED.

  
TODD J. CAMPBELL  
UNITED STATES DISTRICT JUDGE